

**UNITED STATES DISTRICT COURT**

# **DISTRICT OF NEVADA**

\* \* \*

EDWARD E. SEELY,

Plaintiff(s),

V.

CITY OF LAS VEGAS (DOES 1-10 or ROES 1-10); NEVADA STATE PUBLIC WORKS DIVISION (DOES 1-10 or/and ROES 1-10 CORPORATIONS),

Defendant(s).

2:20-cv-02109-APG-VCF

## **ORDER**

Before me are the motion to amend complaint (ECF No. 24), motion for summons (ECF No. 25), and motion to extend time to serve (ECF No. 26).

No opposition has been filed to ECF Nos. 24, 25, and 26.

Pursuant to LR 7-2, the failure of an opposing party to file points and authorities in response to any motion, except a motion under Fed. R. Civ. P. 56 or a motion for attorney's fees, constitutes a consent to the granting of the motion. Here, it would seem as though defendants have consented to the granting of the instant motions.

Seely is requesting a 30-day extension to perfect service on defendant Nevada State Public Works Division.

Pursuant to Federal Rule of Civil Procedure 4(m), “[i]f a defendant is not served within 90 days after the complaint is filed, the court--on motion or on its own after notice to the plaintiff--must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period.” “The 90-day time limit imposed by Rule 4(m) expires 90 days after the first complaint in which the defendant is named...” is filed. *Bolden v. City of Topeka*, 441 F.3d 1129, 1148 (10th Cir. 2006)(emphasis added). The 90–day time limit for service does not restart each time a plaintiff

1 files a new amended complaint. *Id.* The district court may extend time for service of process retroactively  
2 after the 90-day service period has expired. *See Mann v. American Airlines*, 324 F.3d 1088, 1090 (9th  
3 Cir.2003).

4 Here, Seely has shown good cause for a 30-day extension to perfect service on defendant Nevada  
5 State Public Works Division.

6 Accordingly, and good cause appearing,

7 I ORDER that the motion to amend complaint (ECF No. 24), motion for summons (ECF No. 25),  
8 and motion to extend time to serve (ECF No. 26) are GRANTED.

9 I FURTHER ORDER that Plaintiff must file the amended complaint on or before February 9,  
10 2022.

11 I FURTHER ORDER that the time to perfect service on defendant Nevada State Public Works  
12 Division is extended to March 11, 2022.

13 The Clerk of Court is directed to issue summons for defendant Nevada State Public  
14 Works Division after plaintiff files his amended complaint.

15 DATED this 26th day of January 2022.



16  
17 CAM FERENBACH  
18  
19 UNITED STATES MAGISTRATE JUDGE  
20  
21  
22  
23  
24  
25